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NATIONAL AFFAIRS

A Feud Among U.S. Agents

Agent Stephen J. Rogers was once a rising star in the U.S. Customs Service. Now his enemies say Rogers nearly sabotaged a top-secret investigation into gun-smuggling by the Irish Republican Army, that he may have endangered the

self are sympathetic to the IRA cause—and some Customs agents privately agree.

In one important case, Rogers's enforcement team began investigating Bernard McKeon, a New York contractor, for smuggling guns to Ireland. The tip came from British intelligence, which alerted Rogers's team in November 1979 that McKeon was implicated in a shipment of 151 guns and 60,000 rounds of ammunition that had been seized in Dublin. How the British got their information was a critical issue. Most U.S. agents assumed that British and Irish police were using wiretaps. But a British intelligence officer who briefed them suggested that the Irish had informers in the IRA ranks; "Lives were at risk," he said. As the McKeon investigation progressed, Rogers reported to his superiors that he suspected his own agents of illegal wiretapping and an illegal break-in. When Rogers could not supply sufficient proof, his complaint went nowhere.

By the time McKeon came to trial in 1982, his lawyer somehow had learned of the alleged wiretaps and break-in. (Rogers firmly denies leaking information to the defense lawyer.) Testifying for the prosecution, a Customs agent said that he knew of no wiretaps; but testifying for McKeon's defense, Rogers claimed that there had been electronic snooping overseas; he also dropped the name of the British intelligence officer.

The trial ended in a hung jury—but the furor over Rogers's testimony had just begun.

British intelligence officials filed a formal protest with Washington over the disclosure of their agent's name; for a time, some Customs officials say, the British even withheld certain intelligence from their U.S. cousins for fear of further leaks. And the U.S. attorney's office in Brooklyn was furious that McKeon's lawyer seemed to have a lot of information from U.S. government files.

At McKeon's second trial, Rogers again testified for the defense. While the proceedings were under way, according to a Customs Service internal investigation, Rogers placed a call from the office of McKeon's

lawyer over a special federal telephone line to an agent at the U.S. Embassy in London. The call produced information helpful to the defense. As for McKeon, his second trip to court ended in a mistrial. The prosecutor blamed Rogers.

Now Rogers and his lawyer are fighting the Customs Service's attempt to fire him for official misconduct. They have apparently managed at least to put the case on hold. That is probably because Rogers's lawyer, John Wing, successfully appealed to Assistant Secretary of the Treasury John Walker to reconsider the case against Rogers—and perhaps, as some within the Customs Service suggest, because Walker also got a call from Sen. Alfonse D'Amato of New York. D'Amato says he interceded on Rogers's behalf because a constituent said Rogers is "a decent, good law-enforcement officer." Walker says, moreover, that he had already decided to reinvestigate the Rogers case before D'Amato made his call—and D'Amato is "outraged" by the suggestion, again by Customs Service critics, that Walker may have been influenced by D'Amato's offer several months later to propose him for a federal judgeship.

Action: Rogers, meanwhile, is waiting for someone to decide his fate. Customs recommended that he be prosecuted for obstruction of justice, but the U.S. attorney's office in Brooklyn declined, among other reasons because the trial would inevitably make public a host of supersensitive details about U.S. counterterrorist operations with the British. The Customs Service has investigated him twice, and the Treasury Department has also investigated the affair. And late last month the Justice Department finished its own review of the case; Walker said Customs is now free to take any action necessary. That could mean that Rogers finally faces dismissal. Rogers, a lawyer himself, argues that he is simply an agent who refused to lie in court—and now is being punished for telling the truth. Rogers also insists that there are no IRA partisans

in the New York Customs office. Last week Customs Commissioner William von Raab ordered a broad internal investigation of the New York office to make sure that is the case.

Nearly five years after it began, the Rogers affair has damaged morale in the Customs Service—and some say its effectiveness. Yet the intrigue has produced only one clear-cut result: after three separate trials, Bernard McKeon was convicted in mid-1983 on one count of violating the U.S. Neutrality Act by conspiring to smuggle arms to the IRA. Last month, an appeals court upheld his conviction.



New York: FBI official with confiscated weapons

lives of Irish and British undercover agents and that he seriously disrupted the Anglo-American effort to combat IRA terrorism in Northern Ireland. His lawyer, on the other hand, says Rogers is being "railroaded" and that Rogers's career as a Customs investigator is being sacrificed to appease the British government. After four separate internal inquiries and years of behind-the-scenes wrangling, only this much is clear: the obscure, tangled case of Stephen Rogers has become a very political affair—and it has set a federal law-enforcement agency at war against itself.

Gun-Smuggling: It all began in 1979, when Rogers was put in charge of a special team of New York agents investigating "neutrality cases"—alleged violations of U.S. laws restricting the shipment of arms and military aid to foreign countries. Gun-smuggling to Northern Ireland, organized by IRA supporters in the United States and often funded by contributions from well-meaning Irish-Americans, was and is a major target for Customs investigators in New York. For some time, however, British officials have suspected that at least a few Irish-American



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